

172121 *ams***RECEIVED****BEFORE****THE PUBLIC SERVICE COMMISSION OF****SOUTH CAROLINA****DOCKET NO. 2004-219-E**

November 30, 2004

NOV 30 2004

OFFICE OF EXECUTIVE
ASSISTANT TO THE COMMISSIONERS
SOUTH CAROLINA PUBLIC
SERVICE COMMISSION

In the Matter of)	RESPONSE OF PROGRESS
)	ENERGY CAROLINAS, INC.
Petition of Progress Energy Carolinas, Inc.)	TO RESPONDENT'S MOTION
To Terminate Service)	FOR CONTINUANCE OF DATE
)	OF HEARING AND EXTENSION
)	OF TIME FOR FILING OF
)	PLEADINGS

1. On August 4, 2004, Progress Energy Carolinas, Inc. ("PEC") filed a Petition to Terminate Service to the property of Mrs. Beatrice Weaver and/or Renaissance International, Inc. located at 1253 Harllees Bridge Road, Little Rock, South Carolina.

2. The Public Service Commission of South Carolina ("the Commission") subsequently established Docket No. 2004-219-E, and on September 29 issued a Notice scheduling a hearing for December 9, 2004 and prescribing dates for pre-filing of testimony (November 10 for Applicant, November 24 for all other parties), rebuttal testimony (December 1) and surrebuttal testimony (December 6).

3. PEC served its Interrogatory #1 on Mrs. Weaver on September 15, 2004, asking for a reply by October 5. When Mrs. Weaver failed to meet that deadline, on October 27, PEC filed an Addendum to its Petition to Terminate, including a Motion to Compel Mrs. Weaver to respond. Mrs. Weaver has still not responded to PEC's interrogatory.

4. On September 14, 2004, Mrs. Weaver filed her Answer (dated September 8) to PEC's Petition to Terminate Service, including her request for "double the time for filing pleadings" on the grounds of age and ill health, lack of access to an adequate law library, and inadequate postal service. On October 19 PEC filed its Return and Motion for Summary Judgment, including arguments in opposition to Mrs. Weaver's request for double the time to file pleadings. The Commission subsequently denied Mrs. Weaver's request for double the time for filing pleadings on October 27, 2004.

5. PEC filed its testimony for witness Gregory A. Cagle on November 5, 2004, five days before the November 10 deadline, in an effort to give Mrs. Weaver ample time to meet her respective filing deadline for testimony. Mrs. Weaver failed to meet her deadline, however, and has not subsequently filed any testimony.

6. On November 24, the date when her pre-filed testimony was due, Mrs. Weaver instead filed a motion again asking for double the time to file pleadings (citing grounds identical to those in her September 14 motion, which was denied by the Commission on October 27) and citing health reasons as grounds for requesting the Commission to "extend the hearing date by at least three months. And Respondent reserves the right to apply for further extensions if circumstances demand it."

7. PEC objects to granting any extension in the hearing date at this late stage of the proceeding. The "surgeries and hospitalizations" Mrs. Weaver cites were not unforeseen—as she states in her pending Motion, "The Commission has been given ample notice of these adverse medical conditions that handicap Respondent in processing this case." In fact, as early as September 11, 2004 (eighteen days before the Commission's Notice setting the December 9 hearing date), Mrs. Weaver makes reference to "several of my long-standing medical

appointments at the Duke Medical Center in North Carolina” as a justification for delaying one of the dates for the meter accuracy tests she had asked the Commission to conduct. According to letters from physicians attached to her November 24 Motion, she underwent eye surgery on October 25 at Duke Medical Center and a subsequent surgery on November 23 at St. Eugene Medical Center in Dillon. Comments in several of her letters in September and October make reference to her upcoming surgeries, clearly indicating that they had been scheduled well in advance. Presumably she and her physicians also discussed post-operative ramifications of these procedures well in advance. Mrs. Weaver should thus have had ample time to plan her activities accordingly, and/or to foresee any need for an extension virtually from the time the hearing was first scheduled. Instead, she chose to wait until after PEC had pre-filed its testimony, and her deadlines for responding to PEC’s interrogatory and pre-filing her own testimony were past.

8. Mrs. Weaver’s own actions cast doubt on her contention that these surgical procedures have impeded her ability to meet deadlines. On October 29, four days after her eye surgery, she wrote and faxed separate letters to the Commission, to PEC, and to PEC’s meter reading contractor, and called PEC twice from her home telephone number, once talking at length to an employee of PEC’s Customer Service Center about postponing the monthly meter reading scheduled for November 2. On November 24, the day after her surgery in Dillon, Mrs. Weaver filed her 9-page Motion for Continuance of Hearing Date and for Extension of Time for Filing Pleadings. A day later (November 25) she wrote a two-page letter to Mr. Chad Campbell of the Office of Regulatory Staff (“ORS”) concerning details of the independent meter tests scheduled for November 29.

9. Mrs. Weaver has a history of attempting to delay Commission proceedings unduly; in fact she has attempted to delay virtually every regulatory deadline that the

Commission has set in this proceeding. In addition to the aforementioned earlier request for double the time to respond to regulatory deadlines in this case, Mrs. Weaver wrote the Commission on July 24, 2004 asking for a 30-day extension of time to file her comments on PEC's Petition for waiver of the Commission's rules governing estimated bills. On September 1, 5, and 7, 2004 she wrote the Commission asking for a 30-day extension of time to file her comments on PEC's Petition to Terminate Service. In addition, Mrs. Weaver has delayed or cancelled at least five dates established by ORS for her requested independent meter accuracy tests, prolonging that process for nearly four months (those tests, which were finally conducted on November 29, verified that PEC's meters are accurate to within half a percentage point, well within the Commission's accuracy guidelines). In addition she has established a pattern of requesting, on virtually a monthly basis, that her scheduled meter reading date be postponed to a later date of her choosing. This same pattern of orchestrating delays was amply demonstrated during Mrs. Weaver's husband's formal complaint proceeding before this Commission in 2001 (Docket No. 2001-249-E) concerning unpaid electric bills at Mrs. Weaver's residence. As a result of repeated requests for continuances, that proceeding consumed one year (December 2000 to December 2001) from start to finish, during which period the Weavers were able to incur an additional \$2300 in unpaid electric bills, which have yet to be paid.

10. In short, Mrs. Weaver's request for a three-month extension on the hearing date and a 60-day extension for responding to PEC's Interrogatory #1 (the response to which is already nearly two months overdue) is untimely and unjustified—but hardly unexpected. The Commission has already ruled that the identical grounds she is citing for her present request were insufficient to justify her first request (September 14) for double the time to respond to pleadings. The present attempt to delay the process is merely the latest in a long series of similar

attempts to defer the inevitable. That pattern strongly suggests that if the Commission grants this extension, subsequent requests for extensions are sure to follow. PEC believes that this matter has dragged on far too long already, and needs to be brought to closure.

PEC therefore moves the Commission to deny Mrs. Weaver's Motion for Continuance of Hearing Date and for Extension of Time for Filing Pleadings, and to bring the matter on for hearing at the presently scheduled time and place. If Mrs. Weaver (the only other party to this proceeding besides PEC) plans not to participate in the December 9 hearing, PEC would further move that the Commission cancel the hearing and issue its ruling based on the pleadings.

Respectfully submitted this the 30th day of November, 2004.

PROGRESS ENERGY CAROLINAS, INC.



Len S. Anthony
Deputy General Counsel - Regulatory Affairs
Progress Energy Service Co., LLC
Post Office Box 1551
Raleigh, North Carolina 27602-1551
Telephone: (919) 546-6367
Facsimile: (919) 546-2694
E-mail: len.s.anthony@pgnmail.com
Counsel for Progress Energy